

Local Planning Authority Ref: SMD/2021/0547
Planning Inspectorate Ref: APP/B3438/W/22/3306577
Ordnance Survey Ref: SK 079 476

Town and Country Planning Act, 1990

LPA Appeal Statement

**Statement by Staffordshire Moorlands District Council
in respect of the appeal by Mr Chris Baillon of Indigo Architecture on behalf of
Mr E Farooq against the refusal by the Local Planning Authority of an
application for outline planning permission for 'Proposed erection of
farmhouse dwelling with all matters reserved' at land at Rue Hill, Caudon
Lowe, Staffordshire Moorlands**

1. Introduction

- 1.1 This statement is made by Staffordshire Moorlands District Council in response to the appeal made by Mr Chris Baillon of Indigo Architecture on behalf of Mr E Farooq against the refusal by the Local Planning Authority of an application for outline planning permission for 'Proposed erection of farmhouse dwelling with all matters reserved' at land at Rue Hill, Caudon Lowe, Staffordshire Moorlands
- 1.2 The application was submitted on 17th August 2021 but not accepted as valid until 26th April 2022. The refusal decision was issued in accordance with the statutory 8 week time frame on the 21st June 2022.
- 1.3 It is not proposed in this statement to repeat the contents of the LPA's delegated decision report but instead the main focus will be to respond to the appellant's submissions and re-emphasise and where necessary clarify or expand on the LPA's reasons for refusal.
- 1.4 The appellant says at 1.6 that their statement "seeks to provide further background context to the proposal, provide narrative on the site and its context, appraisal of relevant policy matters and provide the Appellant's case in response to the reasons cited for refusal". As well as their appeal statement the appellant has submitted the transcript of a High Court judgement from November 2019: Wokingham-BC v SoS and Taylor Wimpey. The appellant

has also submitted at their Appendix D a copy of a preliminary ecological appraisal report.

- 1.5 The main points at issue are (a) the principle of the development; (b) agricultural justification; (c) landscape character and appearance; (d) ecology; (e) highway safety and (f) information in relation to noise.

2. LPA responses to the appellant's grounds of appeal

- 2.1 The appellant begins by making some generalised assertions in their appellant statement (AS) section 2 about how the scheme could relate to the lie of the land; how the open countryside planning policies restrict the scope for development; examples of farms with long access lanes and how they see the proposal as being not out of character. At AS section 3 the appellant reviews planning policy. AS section 4 is headed 'Case on behalf of the appellant'.
- 2.2 The LPA cannot accept the unqualified assertion at AS 2.7 of an "ability for the proposal to sit into the natural topography of the site without any significant visibility from any publicly available vantage point". The site is seen prominently at various points from the main B5417 including alongside the application ownership as well as in approaches from the south and from two public footpaths – Farley footpath 16 along the north east edge of the application land overlapping with the proposed access lane, and Farley footpath 17 which passes generally north east to south west in parallel with the south east boundary of the application land. The public rights of way are shown in lime green in Fig. 1 below with a red arrow pointing to the proposed dwelling location.

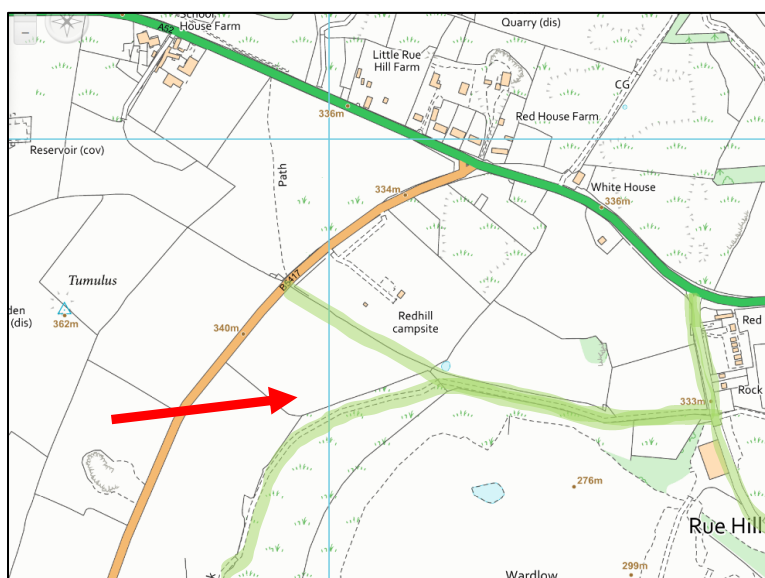


Fig. 1

- 2.3 The appellant may have various aspirations for their build concept such as setting into the land and using a 'green roof' but these ideas do not overcome the more fundamental issue of the lack of policy support for a dwelling. Furthermore, as an outline application with all matters reserved there is no actual design information submitted and detailed design appearance is not part of the planning decision assessment. The visual impacts of the development would also go well beyond matters of building design and include the associated domestic trappings of a dwelling, outdoor amenity space, vehicles and parking, and in this case the lengthy access lane. In broad terms these must be regarded as inevitable adverse impacts. It would therefore be unusual and perhaps improbable that any concept could be designed to avoid ultimately resulting in an overall dominant sense of development presence in this at present totally undeveloped land.
- 2.4 The appellant's photograph at AS 2.8 is a wide-angled panorama and does not relate the view especially well to how the human eye would find it – the Landscape Institute Guidelines for Landscape and Visual Impact Assessment (2013) set out in comprehensive detail how photographs can distort and misrepresent and recommend a 50mm focal length equivalent should be used and not wide angle. The photograph at Fig.2 below is considered by the LPA more representative of the scope for views to be had of the proposed dwelling site from the public road.



Fig. 2

- 2.5 A running theme of the appellant's statement is concerned with planning policy limitations and restrictions on new development in the open countryside outside of development boundaries. The appellant however also conflates Green Belt policy with that for other open countryside outside of Green Belt. The issue is covered at some length in AS 4.7 to 4.18. The LPA must stress, and no doubt the Inspector will fully recognise, that this outline application is not in an area of

Green Belt. The Council has specific policy for the Green Belt which is to determine applications strictly in accordance with the NPPF and allow only for exceptions as defined by Government policy. Outside of the Green Belt – as is the case here – the Council again has specific policies. Contrary to the portrayal put across by the appellant these policies do not say that new development must or can only be carried out within defined development boundaries. In fact policy specifically caters positively for new development under the description of ‘rural exceptions housing’ as sated in policy SS10(1) fifth point. However, to be supported, the development must show an ‘essential need’ to be located in the countryside. It must also be in accordance with policies H1 and H3.

- 2.6 The appellant’s wider discourse on the proportions of the nation’s countryside that are covered by Green Belt does not address the more critical question of whether the appeal proposal should succeed under the Council’s – and Government’s – provisions for development in the countryside outside of development boundaries and not in Green Belt. The appellant of course is right to recognise that the most readily available support for development lies within the adopted development boundaries. It is not wholly correct however to describe the area as ‘bereft’ of such opportunities (AS 2.11) as just 2.7km due north of the appeal site is the Staffordshire Moorlands larger village of Waterhouses. Along the A523 Ashbourne Road at a point 5km east of the appeal site is the smaller village of Swinscoe. The larger village of Ipstones is 6km west north west. In relation to the larger and smaller villages the relevant supportive policy is set out at H1(4).
- 2.7 For the appeal site the relevant policy is at H1 (5) (b):
In the other rural areas in the open countryside, only the following forms of housing development will be permitted – b) A new dwelling that meets an essential local need, such as accommodation for an agricultural, forestry or other rural enterprise worker, where the need for such accommodation has been satisfactorily demonstrated and that need cannot be met elsewhere.
- 2.8 The primary determining considerations are therefore:
i) is there an essential local need?
ii) would that need be for an agricultural worker as is put forward?
iii) has the need been satisfactorily demonstrated?
iv) could that need be met elsewhere?
- 2.9 The appellant has ownership of a c.2.7ha (6.7acre) field of meadow grassland / grazing pasture and lives 30 miles away (AS 3.23). The land currently is grazed by livestock and appears likely some years to have been mown for winter grass fodder (hay, haylage or silage). This agricultural use is taking

place without anyone living on site. Who is currently managing the agricultural use of the land is not stated. Typically individual 'isolated' blocks of land like this are let on some basis or other to a nearby farm.

- 2.10 The LPA's view is that there is not an essential need for worker accommodation. The appellant says it is not possible to farm the land whilst remote from it. There is logic to this but it begs a subsequent question, if the appellant did live at the site, what would his work be? The appellant says it is not for the LPA to try to foretell "the future economic performance of the Appellant's livestock farming enterprise". This does however go to the root of whether an on-site worker is essential. If the land cannot sustain a worker it would not be reasonable for the LPA to apply a condition to restrict any putative dwelling to agricultural worker accommodation. No detail of the type of farming is discussed except that it would be livestock. Standard agricultural references eg Nix Farm Management Pocket Book (now in its 53rd edition) would lead to a conclusion that at best in this upland location c.6 acres (the area available after deducting the land given over to the development with its access) might support four to six head of cattle or 18 to 30 sheep (3 to 5 to the acre). In any application for a rural worker dwelling the LPA will invariably require information to demonstrate a business case to underpin the need. No such information is presented here. The scale of the proposal is well below anything which could be likely to support a worker. Nothing is presented in the appeal to show how it might. Though it is stated at 5.3 that "the operation is intended to provide a small family business".
- 2.11 In short, there has not been a satisfactory demonstration of need. There has also been no submission by the appellant as to why nearby accommodation from the open market could not be obtained – addressing the question of could that need be met elsewhere?
- 2.12 It must also be emphasised by the LPA that on this small site of under 5 ha (at or above which certain agricultural permitted development options may apply) there should be no foregone expectation that any agricultural buildings would be permitted here as these too would be subject to planning consent.

Unsustainable location

- 2.13 The AS at 4.25 references the NPPF but does not anywhere address NPPF paragraph 80 which the adopted Local Plan of course necessarily mirrors in its policy H1(5)(b). There should be no doubt though that this would be an isolated home in the countryside with extremely limited public transport connection and well beyond sustainable travel distance to supplies and service. In November 2019 an Inspector considered sustainable travel in relation to an appeal at Frimmoor Croft 400m NE from this appeal site on Ashbourne Road, Rue Hill,

ST10 3HD. The appeal considered the lifting of a condition on a holiday let barn conversion restricting its use to holiday let only. The Inspector stated, “I do not find the building to be within an accessible location for housing, close to services and facilities and it would, in fact, be isolated. Nor would it have good access to public transport” and dismissed the appeal (Appeal ref: APP/B3438/W/19/ 3232886). It is noted that the Highways Authority in their appeal statement (submitted directly by them) further and comprehensively addresses the sustainability of the location concluding at their 4.4 that “the site is not a sustainable location as future occupiers would rely entirely on private car use”.

Refusal Reason 2

- 2.14 The LPA here adds in support of the assessment in the Delegated report a series of photographs revealing the prominence of the development. The valley in which the site is “nestled” as the Appellant puts it is shallow and quite broad and it is wide open to the south (or south south west) with very attractive views into the valley from the B5417 (eg. fig. 3). Entering this valley from the north east along the Farley 17 footpath also has an open feel in which there is a strong sense of undeveloped rural openness. The nearby campsite is above and behind and largely out of sight and the quarry works buildings have been left behind some distance prior and round the corner (fig. 4 and fig.5).



Fig. 3 – view from side of B5417



Fig. 4 – view south west along Farley fp 17 – application site on the right



Fig. 5 – view from Farley fp 17 into the proposed site for the dwelling

- 2.15 In regard to the LPA's cited impacts of the access road required by this development the appellant draws comparison with access lanes to other farms in the wider locality. These do not negate in the LPA's view the impacts of this additional development in, as the LPA sees it a particularly untrammelled spot but one where the development would only compound and extend such impacts as there are such as the camp site adjacent.

Refusal Reason 3 – ecology

- 2.16 Unfortunately the LPA appears to have been in error in not finding an ecological assessment in the application submissions but it seems likely that the lack of reference to it in the original submitted planning statement (PDAS) and moreover the statement at PDAS 3.2 that "The site is not subject to any particular heritage or environmental constraints, nor is it subject to any form

of specific allocation” will may have mis-led the LPA on this point.

- 2.17 It is confusing that the Preliminary Ecological Appraisal (PEA) is titled Rue Hill Campsite but accompanying site plans in the PEA identify the appeal site. A significant limitation of the PEA is stated at PEA 3.5:

The survey was completed during the period of October to April which is generally considered less efficient than the survey being completed during the spring or summer, and it is possible that some plant species have been missed by the field survey. However, in view of the ecological character of the habitats recorded it is considered that the survey is adequate to make a robust assessment of habitats present and the sites likely nature conservation significance.

- 2.18 In fact the site survey date is given at PEA 4.1 as being 18th November 2021. This is a highly sub-optimal survey time. The PEA records at table 5 that the site is part of the Ribdon Bank unimproved calcareous grazing pasture. Spring / summer dates would be essential for habitat of this kind. At p.24 the PEA records the habitat as now comprising B6 Poor Semi Improved grassland. Given the winter survey date the floristic diversity is likely to be under-recorded. Even so it appears some loss of habitat value has occurred. In recognition of this based on the submitted PEA and as this is a non-statutory designation the LPA would accept a planned scheme of biodiversity net gain which would also need to offset the grassland areas lost to the development. The LPA would expect the net gain to focus in part on agriculturally unimproved grassland flora – to create species-rich grassland in other words. The LPA would recommend a ‘biodiversity metric’ assessment by condition in event allowed.

Refusal reason 4

- 2.19 The LPA relies on the comprehensive statement of the Highways Authority and stands fully by the refusal reason given.

Refusal Reason 5

- 2.20 If the Council’s noise officer is advising the LPA that there is insufficient information it becomes difficult for the LPA to find otherwise. A blasting quarry after all is a potentially high noise source. On balance it may be reasonable to cover this by condition to require this as part of any reserved matters application in event allowed.

Refusal Reason 6

- 2.21 The appellant repeatedly refers to the need to “significantly boost the supply of homes” eg AS 4.25 (which is accepted) and contends that this proposed provision of a single dwelling can be justified on this basis. The LPA acknowledges its current housing under supply but in the LPA’s view the adverse impacts would significantly and demonstrably outweigh the benefits of this single dwelling, when assessed against the policies in the Framework taken as a whole and with reference in particular to paragraph 80, paragraph 130 and paragraph 174(b) referencing intrinsic character and beauty.

3. Conclusion

- 3.1 Fundamentally this proposal does not benefit from policy support as a matter of principle. The proposal is for a dwelling. There is no existing farm enterprise and whilst the appellant may aspire to a farming business there is not even an attempt to set out how this might come about and what prospect it might have of supporting or requiring a farm worker. The site is of such small acreage that the likelihood of it supporting a viable business based on livestock and thereby possibly requiring accommodation for a worker on site can readily be predicted as being low. The appellant seems to assume that future planning applications for farm buildings will be supported but these would be subject to assessment and there is nothing to substantiate such an assumption.
- 3.2 In consideration of this statement which it is intended should be read in conjunction with the delegated officer refusal decision report, the LPA respectfully asks that the appeal be dismissed.

Staffordshire Moorlands District Council
16.01.2023